

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 3, “Broker License,” Chapter 4, “Salesperson License,” and Chapter 5, “Licensees of Other Jurisdictions and Reciprocity,” Iowa Administrative Code.

The proposed amendments are a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input and concern from leadership from the professional association of real estate licensees in regard to how real estate salespersons and brokers from other jurisdictions are being licensed by the Real Estate Commission.

The rules in Chapter 3 describe the general requirements for a real estate broker license. The proposed amendments to Chapter 3 will remove old education requirements that have since been updated, update citations to the Iowa Code, and clarify the experience requirements for obtaining a real estate broker license in Iowa. The rules in Chapter 4 describe the general requirements for a salesperson license. The proposed amendments to Chapter 4 will remove old education requirements that have since been updated, provide clarification of the current prelicense education requirements, and update citations to the Iowa Code. The rules in Chapter 5 describe the general requirements for real estate licensees in other jurisdictions who wish to obtain a real estate license in Iowa. The proposed amendments to Chapter 5 will clarify how salespersons and brokers licensed in other jurisdictions can be licensed in Iowa and will update the Commission’s Web address.

Consideration will be given to all written suggestions or comments received on or before October 4, 2016. Comments should be directed to Jeffrey Evans, Iowa Real Estate Commission, 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to jeff.evans@iowa.gov.

A public hearing will be held on October 4, 2016, at 12 noon in the Commission Office, 200 East Grand, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Real Estate Commission and advise of specific needs.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These proposed amendments were approved by the Commission on December 3, 2015.

After analysis and review of this rule making, the Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9.

The following amendments are proposed.

ITEM 1. Amend rule 193E—3.1(543B) as follows:

193E—3.1(543B) General requirements for broker license. An applicant for a broker license must meet all requirements of Iowa Code section 543B.15.

3.1(1) and 3.1(2) No change.

3.1(3) An applicant for a real estate broker’s license who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude, in a court of competent jurisdiction

in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction. “Conviction” is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

3.1(4) No change.

3.1(5) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7) and 193E—subrule 16.3(1), an applicant for licensure as a real estate broker shall complete at least 72 classroom hours of commission-approved real estate education within 24 months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.

3.1(6) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7), an applicant for licensure as a real estate broker must have been ~~a~~ an actively licensed real estate salesperson actively engaged in real estate for a period of at least 24 months preceding the date of application; or shall have had experience as a former broker or salesperson or otherwise substantially equivalent experience to that which a licensed real estate salesperson would ordinarily receive during a period of 24 months.

a. An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in another state or jurisdiction ~~which has a current reciprocal licensing agreement or memorandum in place with Iowa~~, or a combination of both, to satisfy the experience requirement for a broker license only if the former Iowa salesperson or ~~reciprocal~~ applicant from another state or jurisdiction ~~salesperson~~ was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

b. For waiver of commission rules or substitution of experience, see Iowa Code section 543B.15 and the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5.

ITEM 2. Amend rule 193E—3.2(543B) as follows:

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker shall be conducted by the commission or its authorized representative.

3.2(1) No change.

3.2(2) Requests for ~~substitution~~, waiver; or variance. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution~~, waiver; or variance of commission rules or of the qualifications for licensure as permitted by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission’s rules regarding waivers and variances, which can be found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~It~~ The commission may require additional supporting information. If the applicant’s experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that required prelicense education has been completed. If the commission has granted ~~substitution~~, waiver; or variance of prelicense education, the letter granting ~~substitution~~, the waiver; or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

3.2(4) and **3.2(5)** No change.

ITEM 3. Amend rule 193E—3.3(543B), introductory paragraph, as follows:

193E—3.3(543B) Application for broker license. An applicant who passes a qualifying broker examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application, license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 4. Amend subrule 3.5(1) as follows:

3.5(1) Application forms. Application forms for renewal of a broker's license may be obtained from the commission office or may be available found on the commission's Web site. Brokers may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to brokers in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a broker to receive an application form or reminder shall not excuse the broker from the requirement to timely renew.

ITEM 5. Rescind subrule **3.6(4)**.

ITEM 6. Renumber subrule **3.6(5)** as **3.6(4)**.

ITEM 7. Amend subrule 4.1(9) as follows:

4.1(9) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination shall consist of 60 classroom or computer-based hours of real estate principles and practices. To be eligible to take the examination, the applicant must complete the ~~salesperson prelicense education~~ 60 classroom or computer-based hours of real estate principles and practices during the 12 months prior to taking the examination. The applicant must also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The applicant must complete all the required prelicense education during the 12 months prior to the date of application.

ITEM 8. Rescind subrules **4.1(10)** and **4.1(11)**.

ITEM 9. Amend rule 193E—4.2(543B) as follows:

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson shall be conducted by the commission or its authorized representative.

4.2(1) No change.

4.2(2) Requests for ~~substitution~~, waiver or variance. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution~~, waiver, or variance of the qualifications for license required by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~It~~ The commission may require additional supporting information. If the applicant's prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a ~~substitution~~, waiver or variance is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that ~~required prelicense education has~~ 60 classroom or computer-based hours of real estate principles and practices have been completed. If the commission has granted a ~~substitution~~, waiver, or variance of prelicense education, the letter granting the ~~substitution~~, waiver, or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

4.2(4) No change.

ITEM 10. Amend rule 193E—4.3(543B), introductory paragraph, as follows:

193E—4.3(543B) Application for salesperson license. An applicant who passes a qualifying salesperson examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 11. Amend subrule 4.4(2) as follows:

~~4.4(2) All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement: Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.~~

Developing Professionalism and Ethical Practices.....	12 hours
Buying Practices	12 hours
Listing Practices	12 hours
Law Update	8 hours
Ethics	4 hours
Electives.....	24 hours

ITEM 12. Amend subrule 4.5(1) as follows:

4.5(1) Application forms. Application forms for renewal of a salesperson license may be obtained from the commission office or may be available found on the commission's Web site. Salespersons may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to salespersons in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a salesperson to receive an application form or reminder shall not excuse the salesperson from the requirement to timely renew.

ITEM 13. Rescind subrule **4.6(4)**.

ITEM 14. Renumber subrule **4.6(5)** as **4.6(4)**.

ITEM 15. Amend rule 193E—5.1(543B) as follows:

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all requirements of Iowa law and with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed ~~as a salesperson~~ in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) shall may qualify ~~only~~ for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) ~~shall may~~ qualify ~~only~~ for the same type of broker or broker associate license in Iowa. The person must have met all requirements for an Iowa broker's license as provided in rule 193E—3.1(543B). If the person does not meet the requirements, the person shall meet, at a minimum, the requirements for an Iowa salesperson license as provided in 193E—Chapter 4 and shall only qualify for a salesperson license.

5.1(3) No change.

ITEM 16. Amend rule 193E—5.3(543B) as follows:

193E—5.3(543B) License by ~~Iowa-specific examination~~. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the ~~Iowa portion of the~~ real estate examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate, the person meets all requirements for an Iowa broker's license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

5.3(3) and 5.3(4) No change.

ITEM 17. Amend subrule 5.4(7) as follows:

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications. Contact information and a list of states and jurisdictions that have entered into reciprocal licensing agreements or memorandums with Iowa, including addresses and telephone numbers, are available on the commission's Web site located at ~~http://www.state.ia.us/iree~~ https://plb.iowa.gov/.

ITEM 18. Amend rule 193E—5.6(543B), introductory paragraph, as follows:

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement requirements for a real estate broker or salesperson license issued by examination shall apply to a license issued by reciprocity, ~~except that the reinstatement fee is \$25 with an original reciprocal license application.~~